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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,991	04/13/2004	Christopher J. Diorio	IMPJ-0085	4991
49684	7590	12/13/2005	EXAMINER	
THELEN REID & PRIEST LLP			STONE, JENNIFER A	
IMPJ				
P.O. BOX 640640			ART UNIT	PAPER NUMBER
SAN JOSE, CA 95164-0640			2636	

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,991

Applicant(s)

DIORIO ET AL.

Examiner

Jennifer A. Stone

Art Unit

2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-83 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-21 and 42-83, are drawn to an RFID tag, classified in class 340, subclasses 568.1 and 571.
 - II. Claims 22-41, are drawn to a wireless device for decoding signals subject to bandwidth settings, classified in class 375, subclass 316.

If I is chosen, then 1, 10, 11, 42, 43, 63, 72, 73 are Generic claims.

- A. Claims 2-9, 60, 64-70 are drawn to filter and filter bandwidth adjustment.
- B. Claims 12-17, 44-51, 74-79 are drawn to comparing decoded signal with preset code.
- C. Claims 18-21, 56-59, 80-83 are drawn to encoding/decoding an active data rate.
- D. Claims 52-55 are drawn to bandwidth settings.
- E. Claims 9, 61, 62, 71 are drawn to path filters.

If II is chosen, then 22, 23, and 39 are Generic claims.

- A. Claims 31-34 are drawn to bandwidth settings
- B. Claims 24-30 are drawn to comparing decoded signals with preset code.
- C. Claims 35-38 are drawn to encoding/decoding an active data rate.
- D. Claims 40,41 are drawn to path filters.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions RFID tag and filter and filter bandwidth adjustment, decoding signals with preset code, encoding/decoding an active data rate and bandwidth settings are related as combination and subcombination. In addition, inventions wireless device for decoding signals subject to bandwidth settings and bandwidth settings, comparing decoded signals with preset code, encoding/decoding an active data rate, and path filters are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because RFID/wireless devices do not require the particulars of the subcombination. The subcombination has separate utility such as for measuring and testing signals between transmitter and receiver.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Stone whose telephone number is (571) 272.2976. The examiner can normally be reached 8:00-4:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeffery Hofsass can be reached at (571) 272.2981. The fax phone number for the organization where this application or proceeding is assigned is (571) 273.8300 for regular and after final communications.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272.2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer Stone
December 1, 2005



JEFFERY HOFSSASS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600